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NOTIFICATIONS BY HEADS OF DEPARTMENTS, Etc.

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HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

ROC.No.515/SO/2021

Dated: 09.09.2024.

CRIMINAL - RULES GOVERNING THE APPOINTMENT AND OTHER CONDITIONS
OF SERVICE OF SPECIAL JUDICIAL MAGISTRATE OF II CLASS.

NOTIFICATION No.19/SO/2024

In exercise of the powers conferred under Section 11 of The Bharatiya Nagarik Suraksha Sanhita, 2023, the High Court of Andhra Pradesh, in supersession of the earlier notifications issued on the subject, hereby makes the following rules viz., "The Andhra Pradesh Special Judicial Magistrate of II Class Service Rules, 2024" specifying the qualifications or experience to be possessed by a person to confer powers as Special Judicial Magistrate of II Class.

1. Short title and commencement:

- i. These rules may be called "The Andhra Pradesh Special Judicial Magistrate of II Class Service Rules, 2024".
- ii. They extend to whole of the State of Andhra Pradesh.
- iii. They shall come into force from the date they are published in the Official Gazette.

2. Definitions:

In these rules, unless context otherwise requires:

- i. "Suraksha Sanhita" shall mean The Bharatiya Nagarik Suraksha Sanhita, 2023;
- ii. "Offence" shall have the same meaning as assigned to it in Section 2(q) of the Bharatiya Nagarik Suraksha Sanhita, 2023;
- iii. "Government" means the Government of the State;
- iv. "Governor" means the Governor of the State;
- v. "High Court" means the High Court of Andhra Pradesh;

3. Qualifications:

A person shall be qualified for appointment as Special Judicial Magistrate of II Class if a person ---

- i. held any post in Andhra Pradesh State Judicial Service and retired or resigned; or
- ii. held a post in the Andhra Pradesh Judicial Ministerial Subordinate Service not below the rank of Superintendent (Category-III of Andhra Pradesh Judicial Ministerial Subordinate Service Rules, 2019) in the State of Andhra Pradesh and has a law degree; or
- iii. held a post of Section Officer and above in the Andhra Pradesh High Court Service and has a law degree; or
- iv. practiced as an advocate at least for five years and at present not on the rolls of the Bar Council.
- v. being any retired Gazetted Officer possessing law degree or who has passed the criminal judicial test in full consisting of Indian Penal Code and the Code of Criminal Procedure or the Bharatiya Nyaya Sanhita, 2023 and the Bharatiya Nagarik Suraksha Sanhita, 2023 conducted by the Andhra Pradesh Public Service Commission and who has exercised Magisterial powers during his tenure of service for not less than three years;

provided that a suitable retired Judicial Officer shall be given preference.

4. Disqualifications:

A person

- i. Who is a practicing advocate; or
- ii. Who is a member of any State or local authority; or

- iii. Who is a member of the State Legislature or the Parliament; or
- iv. having held an office under the State or the Union Government or any local authority, has been dismissed or removed or compulsorily retired from service or subjected to any other major penalty for misconduct, or;
- v. who has been convicted and sentenced by a court for an offence involving moral delinquency or is charged of any offence constituting moral turpitude and proceedings are pending; or
- vi. of unsound mind or who is deaf or mute or blind or suffering from leprosy or any other contagious disease; or
- vii. in a bigamous marriage;
- viii. a woman whose marriage is void by reason of the husband having a wife at the time of such marriage or who has married a person who has a wife living at the time of such marriage;
- ix. adjudicated as an insolvent or an undischarged insolvent; or
- x. being contractor or a businessman or one interested in a subsisting contract or any work being done for Central or State Government or a local authority within whose limits the Special Judicial Magistrate of II Class has to discharge his duties.

shall not be eligible.

5. Age:

Non-practicing advocate with a practice at the Bar of not less than five years and who is above 45 years and below 65 years of age and in respect of retired persons who have at least one and half years to complete 65 years of age, as on the date of notification, shall alone be eligible.

6. Unit of appointment:

Except as otherwise provided herein below, since the judicial districts are not bifurcated for judiciary in the State of Andhra Pradesh, the unit of appointment shall be the respective judicial districts of the candidate to which he belong to.

7. Method of appointment and appointing authority:

Subject to the other provisions contained in these rules, the method for appointment of Special Judicial Magistrate of II Class shall be as follows:

(i) The Principal District Judge shall issue notification for filling up the post of Special Judicial Magistrate of II Class six months prior to completion of tenure of appointment of the sitting Magistrate in the district and on receipt of applications from the candidates, the Principal District Judge, after scrutiny of the applications, shall send only those applications which are in order to the High Court and the Committee of Judges for the appointment and other conditions of service of Special Judicial Magistrates of II Class will conduct either written test or interview or both and select the candidates.

(ii) The Chief Judicial Magistrate shall issue orders under Sections 12 and 13 of the Bharatiya Nagarik Suraksha Sanhita, 2023, defining the local limits of the areas within which the Special Judicial Magistrates of II Class may exercise powers and as to the distribution of business among the Magistrates.

(iii) The Principal District Judge shall cause necessary in-charge arrangements in respect of the Special Judicial Magistrates of II Class whose tenure of appointment would be expired or who attains the age of 65 years even before completion of their respective term of appointment.

8. Holding of Court:

The Special Judicial Magistrates of II Class shall hold Court work for 5 (five) days in a week i.e., from Monday to Friday on working days between 07.30 a.m. and 10.30 a.m.

9. Honorarium:

The honorarium/remuneration payable to the Special Judicial Magistrates of II Class shall presently be @ Rs.45,000/- (Rupees forty five thousand) per month and Rs.5,000/- (Rupees five thousand only) per month towards conveyance, subject to enhancement of the same by the Government, from time to time.

10. Leaves:

The Special Judicial Magistrates of II Class will be under the administrative control of the Chief Judicial Magistrate in the matters such as grant of leave, drawal of honorarium, inspection of court, permission to assume charge.

Every Special Judicial Magistrate of II Class is entitled to casual leave not exceeding 15 days in a calendar year and not entitled to any other kind of leave.

11. Revocation of powers of Special Judicial Magistrate of II Class:

i. If any complaint as to the misconduct of the Special Judicial Magistrate of II Class is received by the High Court, the same shall be placed before the Committee dealing with the subject. If, on perusal of the complaint, the Committee is of the opinion that the officer has resorted to any acts of misconduct, or has derelicted his duties, a show cause notice, of not less than 15 days, requiring him to explain, shall be issued.

On consideration of the explanation offered by the officer, if the Committee finds that any act of misconduct or dereliction of duty was resorted by the officer, Committee may make appropriate recommendation, for termination of the services of the officer, which in turn shall be forwarded to the Government. The order so passed would be final.

ii. On appointment and while in service, a Special Judicial Magistrate of II Class may be removed without being called upon to show cause if he fails to attend three consecutive sittings of the Court without a written permission of the concerned Chief Judicial Magistrate;

iii. Powers conferred by the Court on Special Judicial Magistrate of II Class shall automatically stand withdrawn on attaining the age of 65 years.

Dr. Y. LAKSHMANA RAO,
Registrar General.

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